(*3*) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid, and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint.

Magistrate may dispense with personal attendance of accused.

205. (*1*) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused, and permit him to appear by his pleader.

(*2*) But the Magistrate inquiring into or trying the case may, in his discretion at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in manner hereinbefore provided.

CHAPTER XVIII.

OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION OR HIGH COURT.

Power to commit for trial.

206. (*1*) Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate, or Magistrate of the first class, or any Magistrate (not being a Magistrate of the third class) empowered in this behalf by the State Government may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.

Power to commit for trial.

206. (*1*) [1]* * * Any Presidency Magistrate [2]* * * * * or Magistrate the first class, or any Magistrate [3][(not being a Magistrate of the third class)] empowered in this behalf by the [4][[5][State] Government], [6][*in consultation with the High Court*], may commit any person for trial to the Court of Session or High Court for any offence triable by such Court.

(*2*) But, save as herein otherwise provided, no person triable by the Court of Session shall be committed for trial to the High Court.

Procedure in inquiries preparatory to commitment.

[7][**207.** In every inquiry before a Magistrate where the case is triable exclusively by a Court of Session or High Court, or, in the opinion of the Magistrate, ought to be tried by such Court, the Magistrate shall,—

(*a*) in any proceeding instituted on a police report, follow the procedure specified in section 207A ; and

(*b*) in any other proceeding, follow the procedure specified in the other provisions of this Chapter.

Procedure to be adopted in proceedings instituted on police report.

207A. (*1*) When, in any proceeding instituted on a police report, the Magistrate receives the report forwarded under section 173, he shall, for the purpose of holding an inquiry under this section, fix a date which shall be a date not later than fourteen days from the date of the receipt of the report, unless the Magistrate, for reasons to be recorded fixes any later date.

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[1] The words and figures " Subject to the provisions of section 443 " rep. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 9.

[2] The words " District Magistrate, Sub-divisional Magistrate " were deleted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

[3] Inserted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 57.

[4] Substituted by the A. O. 1937 for " L. G. "

[5] Substituted by the A. O. 1950 for " Provincial ".

[6] Inserted by Bom. 23 of 1951, s. 2 and Sch. Pt. I.

[7] Ss. 207 and 207A were substituted by Act 26 of 1955, s. 29, for the original s. 207.

(2) If, at any time before such date, the officer conducting the prosecution applies to the Magistrate to issue a process to compel the attendance of any witness or the production of any document or thing, the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so.

(3) At the commencement of the inquiry, the Magistrate shall, when the accused appears or is brought before him, satisfy himself that the documents referred to in section 173 have been furnished to the accused and if he finds that the accused has not been furnished with such documents or any of them, he shall cause the same to be so furnished.

(4) The Magistrate shall then proceed to take the evidence of such persons, if any, as may be produced by the prosecution as witnesses to the actual commission of the offence alleged ; and if the Magistrate is of opinion that it is necessary in the interests of justice to take the evidence of any one or more of the other witnesses for the prosecution, he may take such evidence also.

(5) The accused shall be at liberty to cross-examine the witnesses examined under sub-section (4), and in such case, the prosecutor may re-examine them.

(6) When the evidence referred to in sub-section (4) has been taken and the Magistrate has considered all the documents referred to in section 173 and has, if necessary, examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him and given the prosecution and the accused an opportunity of being heard, such Magistrate shall, if he is of opinion that such evidence and documents disclose no grounds for committing the accused person for trial, record his reasons and discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

(7) When, upon such evidence being taken, such documents being considered, such examination (if any) being made and the prosecution and the accused being given an opportunity of being heard, the Magistrate is of opinion that the accused should be committed for trial, he shall frame a charge under his hand, declaring with what offence the accused is charged.

(8) As soon as such charge has been framed, it shall be read and explained to the accused and a copy thereof shall be given to him free of cost.

(9) The accused shall be required at once to give in, orally or in writing, a list of the persons, if any, whom he wishes to be summoned to give evidence on his trial :

Provided that the Magistrate may, in his discretion, allow the accused to give in his list or any further list of witnesses at a subsequent time ; and, where the accused is committed for trial before the High Court, nothing in this sub-section shall be deemed to preclude the accused from giving, at any time before his trial, to the Clerk of the State a further list of the persons whom he wishes to be summoned to give evidence on such trial.

(10) When the accused, on being required to give in a list under sub-section (9), has declined to do so, or when he has given in such list, the Magistrate may make an order committing the accused for trial by the High Court or the Court of Session, as the case may be, and shall also record briefly the reasons for such commitment.

(11) When the accused has given in any list of witnesses under sub-section (9) and has been committed for trial, the Magistrate shall summon the witnesses included in the list to appear before the Court to which the accused has been committed :

Provided that where the accused has been committed to the High Court, the Magistrate may, in his discretion, leave such witnesses to be summoned by the Clerk of the State and such witnesses may be summoned accordingly :

Provided also that if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may before summoning him require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness and all other proper expenses.

(*12*) Witnesses for the prosecution, whose attendance before the Court of Session or High Court is necessary and who appear before the Magistrate, shall execute before him bonds binding themselves to be in attendance when called upon by the Court of Session or High Court to give evidence.

(*13*) If any witness refuses to attend before the Court of Session or High Court, or execute the bond above directed, the Magistrate may detain him in custody until he executes such bond or until his attendance at the Court of Session or High Court is required, when the Magistrate shall send him in custody to the Court of Session or High Court as the case may be.

(*14*) When the accused is committed for trial, the Magistrate shall issue an order to such person as may be appointed by the State Government in this behalf, notifying the commitment, and stating the offence in the same form as the charge ; and shall send the charge, the record of the inquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session or where the commitment is made to the High Court, to the Clerk of the State or other officer appointed in this behalf by the High Court.

(*15*) When the commitment is made to the High Court and any part of the record is not in English, an English translation of such part shall be forwarded with the record.

(*16*) Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused by warrant to custody.]

Taking of evidence produced.

208. (*1*) [1][In any proceeding instituted otherwise than on a police report, the Magistrate shall] when the accused appears or is brought before him, proceed to hear the complainant (if any), and take in manner hereinafter provided all such evidence as may be produced in support of the prosecution or in behalf of the accused, or as may be called for by the Magistrate.

(*2*) The accused shall be at liberty to cross-examine the witnesses for the prosecution, and in such case the prosecutor may re-examine them.

Process for production of further evidence.

(*3*) If the complainant or officer conducting the prosecution, or the accused, applies to the Magistrate to issue process to compel the attendance of any witness or the production of any document or thing the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so.

(*4*) Nothing in this section shall be deemed to require a Presidency Magistrate to record his reasons.

When accused person to be discharged.

209. (*1*) When the evidence referred to in section 208, sub-sections (*1*) and (*3*), has been taken, and he has (if necessary) examined the accused for the purpose of enabling him to explain any circumstances appearing in the evidence against him, such Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, record his reasons and dischrage him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

[1] Substituted by Act 26 of 1955, s. 30, for "The Magistrate ".

(*2*) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

When charge is to be framed.

210. (*1*) When, upon such evidence being taken and such examination (if any) being made, the Magistrate is satisfied that there are sufficient grounds for committing the accused for trial, he shall frame a charge under his hand, declaring with what offence the accused is charged.

Charge to be explained, and copy furnished, to accused.

(*2*) As soon as [1][such charge] has been framed, it shall be read and explained to the accused, and a copy thereof shall, if he so requires, be given to him free of cost.

List of witnesses for defence on trial.

211. (*1*) The accused shall be required at once to give in orally or in writing, a list of the persons (if any) whom he wishes to be summoned to give evidence on his trial

Further list.

(*2*) The Magistrate may, in his discretion, allow the accused to give in any further list of witnesses at a subsequent time ; and, where the accused is committed for trial before the High Court, nothing in this section shall be deemed to preclude the accused from giving, at any time before his trial, to the [2][Clerk of the State] a further list of the persons whom he wishes to be summoned to give evidence on such trial

Power of Magistrate to examine such witnesses.

212. The Magistrate may, in his discretion, summon and examine any witness named in any list given in to him under section 211.

Order of commitment.

213. (*1*) When the accused, on being required to give in alist under section 211, has declined to do so, or when he has given in such list and the witnesses (if any) included therein whom the Magistrate desires to examine have been summoned and examined under section 212, the Magistrate may make an order committing the accused for trial by the High Court or the Court of Session (as the case may be), and (unless the Magistrate is a Presidency Magistrate) shall also record briefly the reasons for such commitment.

(*2*) If the Magistrate, after hearing the witnesses for the defence, is satisfied that there are not sufficient grounds for committing the accused, he may cancel the charge and discharge the accused.

214. [*Person charged outside presidency-towns jointly with European British subject.*] *Rep. by the Criminal Law Amendment Act, 1923 (XII of 1923), s. 10.*

Quashing commitments under section 213.

215. A commitment once made under section 213 [3]* * * by a competent Magistrate [4]* * * or by a Civil or Revenue Court under section 478, can be quashed by the High Court only, and only on a point of law.

Summons to witnesses for defence when accused is committed.

216. When the accused has given in any list of witnesses under section 211 and has been committed for trial, the Magisrate shall summon such of the witnesses included in the list, as have not appeared before himself, to appear before the Court to which the accused has been committed :

Provided that, where the accused has been committed to the High Court, the Magistrate may, in his discretion, leave such witnesses to be summoned by the [2][Clerk of the State], and such witnesses may be summoned accordingly :

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[1] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 53, for " the charge ".

[2] Substituted by the A. O. 1950 for " Clerk of the Crown ".

[3] The words and figures " or section 214 " rep. by the Criminal Law Amendment Act, 1923 (12 of 1923), s. 11.

[4] The words and figures " or by a Court of Session under section 477 " rep. by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 59.

Refusal to summon unnecessary witness unless deposit made.

Provided, also, that if the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and, if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may before summoning him require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness and all other proper expenses.

Bond of complainants and witnesses.

217. (*1*) Complainants and witnesses for the prosecution and defence, whose attendance before the Court of Session or High Court is necessary and who appear before the Magistrate, shall execute before him bonds binding themselves to be in attendance when called upon at the Court of Session or High Court to prosecute or to give evidence, as the case may be.

Detention in custody in case of refusal to attend or to execute bond.

(*2*) If any complainant or witness refuses to attend before the Court of Session or High Court, or execute the bond above directed, the Magistrate may detain him in custody until he executes such bond, or until his attendance at the Court of Session or High Court is required, when the Magistrate shall send him in custody to the Court of Session or High Court, as the case may be.

Commitment when to be notified.

218. (*1*) When the accused is committed for trial, the Magistrate shall issue an order to such person as may be appointed by the [1][2][State] Government] in this behalf, notifying the commitment, and stating the offence in the same form as the charge, unless the Magistrate is satisfied that such person is already aware of the commitment and the form of the charge;

Charge, etc., to be forwarded to High Court or Court of Session.

and shall send the charge, the record of the inquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session or (where the commitment is made to the High Court to the [3][Clerk of the State] or other officer appointed in this behalf by the High Court.

English translation to be forwarded to High Court.

(*2*) When the commitment is made to the High Court and any part of the record is not in English, an English translation of such part shall be forwarded with the record.

Power to summon supplementary witnesses.

219. (*1*) [4][The committing Magistrate or, in the absence of such Magistrate, any other Magistrate empowered by or under section 206] may, if he thinks fit, summon and examine supplementary witnesses after the commitment and before the commencement of the trial, and bind them over in manner hereinbefore provided to appear and give evidence.

(*2*) Such examination shall, if possible, be taken in the presence of the accused, and, where the Magistrate is not a Presidency Magistrate, a copy of the evidence of such witnesses shall [5][be given to the accused free of cost].

Custody of accused pending trial.

220. Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused by warrant, to custody.

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[1] Substituted by the A. O. 1937 for "L. G.".
[2] Substituted by the A. O. 1950 for "Provincial".
[3] Substituted, *ibid.*, for "Clerk of the Crown".
[4] Substituted by the Code of Criminal Procedure (Amendment) Act, 1923 (18 of 1923), s. 60, for "The Magistrate".
[5] Substituted by s. 60, *ibid.*, for "if the accused so require, be given to him free of cost".